



General Assembly

February Session, 2010

Raised Bill No. 426

LCO No. 2074

02074_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE CONNECTICUT UNIFORM ADULT
PROTECTIVE PROCEEDINGS JURISDICTION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) Sections 1 to 23,
2 inclusive, of this act may be cited as the "Connecticut Uniform Adult
3 Protective Proceedings Jurisdiction Act."

4 Sec. 2. (NEW) (*Effective October 1, 2010*) As used in sections 1 to 23,
5 inclusive, of this act:

6 (1) "Adult" means an individual who is at least eighteen years of
7 age.

8 (2) "Conservator" means a conservator of the estate, as defined in
9 section 45a-644 of the general statutes, as amended by this act, or a
10 person, except a hospital or nursing home facility, appointed by a
11 court outside of this state to administer the property of an adult.

12 (3) "Guardian" means (A) a conservator of the person, as defined in
13 section 45a-644 of the general statutes, as amended by this act, or (B) a
14 person, except a hospital or nursing home facility, appointed by a

15 court outside of this state to make decisions regarding the person of an
16 adult. "Guardian" does not include a guardian, as defined in section
17 45a-604 or 45a-669 of the general statutes.

18 (4) "Guardianship order" means (A) an order appointing a guardian
19 pursuant to part IV of chapter 802h of the general statutes, or (B) an
20 order by a court outside of this state appointing a guardian.

21 (5) "Guardianship proceeding" means (A) a judicial proceeding held
22 pursuant to part IV of chapter 802h of the general statutes in which an
23 order for the appointment of a guardian is sought or has been issued,
24 or (B) a judicial proceeding held outside of this state in which an order
25 for the appointment of a guardian is sought or has been issued.

26 (6) "Incapacitated person" means a conserved person, as defined in
27 section 45a-644 of the general statutes, as amended by this act, or an
28 adult for whom a guardian has been appointed in a judicial proceeding
29 held outside of this state.

30 (7) "Party" means the respondent, petitioner, guardian, conservator
31 or any other person allowed by a court to participate in a guardianship
32 proceeding or protective proceeding.

33 (8) "Person", except as used in the term "incapacitated person" or
34 "protected person", means an individual, corporation, business trust,
35 estate, trust, partnership, limited liability company, association, joint
36 venture, public corporation, government or governmental subdivision,
37 agency or instrumentality, or any other legal or commercial entity.

38 (9) "Protected person" means a conserved person, as defined in
39 section 45a-644 of the general statutes, as amended by this act, or an
40 adult for whom a protective order has been issued outside of this state.

41 (10) "Protective order" means an order granted pursuant to part IV
42 of chapter 802h of the general statutes, or an order by a court outside
43 of this state appointing a conservator or other order by a court related
44 to the management of an adult's property.

45 (11) "Protective proceeding" means a judicial proceeding held
46 pursuant to part IV of chapter 802h of the general statutes or a judicial
47 proceeding held outside of this state in which a protective order is
48 sought or has been issued.

49 (12) "Record" means information that is inscribed on a tangible
50 medium or that is stored in an electronic or other medium and is
51 retrievable in perceivable form.

52 (13) "Respondent" means a respondent, as defined in section 45a-644
53 of the general statutes, as amended by this act, or an adult for whom a
54 protective order or the appointment of a guardian is sought outside of
55 this state.

56 (14) "State" means a state of the United States, the District of
57 Columbia, Puerto Rico, the United States Virgin Islands, a federally
58 recognized Indian tribe or any territory or insular possession subject to
59 the jurisdiction of the United States.

60 Sec. 3. (NEW) (*Effective October 1, 2010*) (a) Sections 1 to 23, inclusive,
61 of this act, and sections 45a-644 of the general statutes, as amended by
62 this act, 45a-648 of the general statutes, as amended by this act, and
63 45a-649 of the general statutes, as amended by this act, apply to
64 guardianship proceedings and protective proceedings begun on or
65 after October 1, 2010.

66 (b) Sections 1 to 7, inclusive, of this act and sections 17 to 23,
67 inclusive, of this act apply to guardianship proceedings and protective
68 proceedings begun before October 1, 2010, regardless of whether a
69 guardianship order or protective order has been issued.

70 Sec. 4. (NEW) (*Effective October 1, 2010*) A court of probate may treat
71 a foreign country as if it were a state for the purpose of applying
72 sections 1 to 18, inclusive, and sections 22 and 23 of this act.

73 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) A court of probate may
74 communicate with a court in another state concerning a proceeding

75 arising under sections 1 to 23, inclusive, of this act or part IV of chapter
76 802h of the general statutes. The court of probate shall allow the
77 parties to participate in the communication.

78 (b) The court of probate shall make a record of the communication.

79 (c) The court of probate shall inform the parties of any such
80 communication not later than seven business days after the date of
81 such communication and shall grant the parties access to the record of
82 the communications. The court of probate shall grant the parties the
83 opportunity to present facts and legal arguments before issuing a
84 decision on jurisdiction.

85 (d) Courts of probate may communicate concerning schedules,
86 calendars, court records and other administrative matters without
87 making a record.

88 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) In a proceeding for
89 involuntary representation in this state, a court of probate may request,
90 to the extent permitted or required by the laws of this state, the
91 appropriate court of another state to do any of the following:

92 (1) Hold an evidentiary hearing;

93 (2) Order a person in that state to produce evidence or give
94 testimony pursuant to the procedures of that state;

95 (3) Order that an evaluation or assessment be made of the
96 respondent, subject to the provisions of section 45a-132a of the general
97 statutes;

98 (4) Order any appropriate investigation of a person involved in a
99 proceeding;

100 (5) Forward to the Court of Probate a certified copy of the transcript
101 or other record of a hearing under subdivision (1) of this subsection, or
102 any other proceeding, any evidence otherwise produced under

103 subdivision (2) of this subsection, and any evaluation or assessment
104 prepared in compliance with an order issued under subdivision (3) or
105 (4) of this subsection;

106 (6) Issue an order necessary to assure the appearance in the
107 proceeding of a person whose presence is necessary for the court to
108 make a determination, including the respondent or the incapacitated
109 person or protected person, subject to the provisions of subsection (e)
110 of section 45a-649 of the general statutes, as amended by this act,
111 subsection (e) of section 45a-650 of the general statutes or subsection
112 (g) of section 45a-656b of the general statutes; or

113 (7) Issue an order authorizing the release of medical, financial,
114 criminal or other relevant information in that state, including protected
115 health information as defined in 45 CFR 164.504, as amended from
116 time to time, subject to the provisions of subsection (g) of section 45a-
117 649a.

118 (b) If a court of another state in which a guardianship proceeding or
119 protective proceeding is pending requests assistance of the kind
120 provided in subsection (a) of this section, a court of probate has
121 jurisdiction for the limited purpose of granting the request or making
122 reasonable efforts to comply with the request, subject to the laws of
123 this state.

124 Sec. 7. (NEW) (*Effective October 1, 2010*) (a) In a proceeding for
125 involuntary representation in this state, in addition to other
126 procedures that may be available, testimony of a witness who is
127 located in another state may be offered by deposition or other means
128 allowable in this state for testimony taken in another state. A court of
129 probate on its own motion may order that the testimony of a witness
130 be taken in another state and may prescribe the manner in which and
131 the terms upon which the testimony is to be taken.

132 (b) In a proceeding for involuntary representation in this state, a
133 court of probate may permit a witness located in another state to be

134 deposed or to testify by telephone or audiovisual or other electronic
135 means. A court of probate shall cooperate with the court of the other
136 state in designating an appropriate location for the deposition or
137 testimony.

138 (c) Documentary evidence transmitted from another state to a court
139 of probate by technological means that does not produce an original
140 writing may not be excluded from evidence on an objection based on
141 the best evidence rule.

142 Sec. 8. (NEW) (*Effective October 1, 2010*) (a) As used in this section
143 and sections 9 to 16, inclusive, of this act:

144 (1) "Emergency" means a circumstance that will result in immediate
145 and irreparable harm to the mental or physical health or financial or
146 legal affairs of the respondent and includes a circumstance in which a
147 temporary conservator may be appointed and may serve under
148 subsection (a) of section 45a-654 of the general statutes;

149 (2) "Home state" means the state in which the respondent was
150 physically present, including any period of temporary absence, for at
151 least six consecutive months immediately before the filing of a petition
152 for a protective order or the appointment of a guardian, or, if none, the
153 state in which the respondent was physically present, including any
154 period of temporary absence, for at least six consecutive months
155 ending within the six months prior to the filing of the petition.

156 (3) "Significant-connection state" means a state, other than the home
157 state, with which a respondent has a significant connection other than
158 mere physical presence and in which substantial evidence concerning
159 the respondent is available.

160 (b) In determining under section 10 of this act and subsection (e) of
161 section 17 of this act whether a respondent has a significant connection
162 with a particular state, the court shall consider:

163 (1) The location of the respondent's family and other persons

164 required to be notified of the guardianship proceeding or protective
165 proceeding;

166 (2) The length of time the respondent at any time was physically
167 present in the state and the duration of any absence;

168 (3) The location of the respondent's property; and

169 (4) The extent to which the respondent has ties to the state such as
170 voter registration, state or local tax return filing, vehicle registration,
171 driver's license, social relationship and receipt of services.

172 Sec. 9. (NEW) (*Effective October 1, 2010*) A proceeding for
173 involuntary representation in this state shall be subject to the
174 provisions of part IV of chapter 802h of the general statutes, except that
175 jurisdiction shall be determined in accordance with sections 8 to 16,
176 inclusive, of this act.

177 Sec. 10. (NEW) (*Effective October 1, 2010*) A court of probate in this
178 state has jurisdiction to appoint a conservator of the person or
179 conservator of the estate for a respondent pursuant to part IV of
180 chapter 802h of the general statutes if:

181 (1) This state is the respondent's home state;

182 (2) On the date a petition for involuntary representation is filed, this
183 state is a significant-connection state, and:

184 (A) The respondent does not have a home state or a court of the
185 respondent's home state has declined to exercise jurisdiction because
186 this state is a more appropriate forum; or

187 (B) The respondent has a home state, a petition for an appointment
188 or order is not pending in a court of that state or another significant-
189 connection state, and, before the court makes the appointment or
190 issues the order:

191 (i) A petition for an appointment or order is not filed in the

192 respondent's home state;

193 (ii) An objection to the court's jurisdiction is not filed by a person
194 required to be notified of the proceeding; and

195 (iii) The Court of Probate concludes that it is an appropriate forum
196 under the factors set forth in subsection (c) of section 13 of this act;

197 (3) A court of probate in this state does not have jurisdiction under
198 either subdivision (1) or (2) of this subsection, the respondent's home
199 state and all significant-connection states have declined to exercise
200 jurisdiction because this state is the more appropriate forum, and
201 jurisdiction in this state is consistent with the statutes of this state and
202 the Constitutions of this state and the United States; or

203 (4) The requirements for special jurisdiction under section 11 of this
204 act are met.

205 Sec. 11. (NEW) (*Effective October 1, 2010*) (a) A court of probate
206 lacking jurisdiction under section 10 of this act has special jurisdiction
207 to do any of the following if the court of probate makes the necessary
208 preliminary findings required under section 45a-654 of the general
209 statutes:

210 (1) Appoint a temporary conservator of the person or the estate in
211 an emergency pursuant to subsection (a) of section 45a-654 of the
212 general statutes for a term not exceeding ninety days for a respondent
213 who is physically present in this state; or

214 (2) Appoint a temporary conservator of the person or the estate for
215 an incapacitated person or protected person for whom a provisional
216 order to transfer the proceeding from another state has been issued
217 under procedures similar to those in section 17 of this act.

218 (b) If a petition for the appointment of a temporary conservator of
219 the person or the estate in an emergency is brought in this state and
220 this state was not the respondent's home state on the date the petition

221 was filed, the court shall dismiss the proceeding at the request of the
222 respondent or the court of the home state, if any, whether dismissal is
223 requested before or after the emergency appointment.

224 Sec. 12. (NEW) (*Effective October 1, 2010*) Except as otherwise
225 provided in section 11 of this act, a court that has appointed a guardian
226 or issued a protective order consistent with the requirements of
227 sections 1 to 23, inclusive, of this act and part IV of chapter 802h of the
228 general statutes has exclusive and continuing jurisdiction over the
229 proceeding until it is terminated by the court or the appointment or
230 order expires by its own terms.

231 Sec. 13. (NEW) (*Effective October 1, 2010*) (a) A court of probate
232 having jurisdiction under section 10 of this act to appoint a conservator
233 of the person or conservator of the estate may decline to exercise its
234 jurisdiction if it determines at any time that a court of another state is a
235 more appropriate forum.

236 (b) If a court of probate declines to exercise its jurisdiction under
237 subsection (a) of this section, the court of probate shall either dismiss
238 the proceeding or stay the proceeding for not more than ninety days to
239 allow for a petition to be filed in a more appropriate forum that has
240 jurisdiction to appoint a guardian or issue a protective order.

241 (c) In determining whether it is an appropriate forum, the Court of
242 Probate shall consider all relevant factors, including:

243 (1) Any expressed preference of the respondent;

244 (2) Whether abuse, neglect or exploitation of the respondent has
245 occurred or is likely to occur and which state could best protect the
246 respondent from the abuse, neglect or exploitation;

247 (3) The length of time the respondent was physically present in or
248 was a legal resident of this or another state;

249 (4) The distance of the respondent from the court in each state;

- 250 (5) The financial circumstances of the respondent's estate;
- 251 (6) The nature and location of the evidence;
- 252 (7) The ability of the court in each state to decide the issue in
253 accordance with due process of law and without undue delay;
- 254 (8) The procedures necessary to present evidence;
- 255 (9) The familiarity of the court of each state with the facts and issues
256 in the proceeding; and
- 257 (10) If an appointment were made, the court's ability to monitor the
258 conduct of the conservator of the person or conservator of the estate.
- 259 (d) The court shall make specific written findings as to the basis for
260 its determination of appropriate forum.

261 Sec. 14. (NEW) (*Effective October 1, 2010*) (a) If at any time a court of
262 probate determines that it acquired jurisdiction to appoint a guardian
263 or issue a protective order because of unjustifiable conduct of a party,
264 the court shall:

265 (1) Decline to exercise jurisdiction and dismiss the case if the court
266 has not entered an order in the case; or

267 (2) Rescind any order issued in the case and dismiss the case, except
268 that, prior to dismissing the case, the court may exercise limited
269 jurisdiction for not more than ninety days for the limited purpose of
270 fashioning an appropriate remedy to avoid immediate and irreparable
271 harm to the mental or physical health or financial or legal affairs of the
272 person for whom a guardian was appointed or who was subject to the
273 protective order to prevent a repetition of the unjustifiable conduct.

274 (b) A court of probate that determines it has acquired or maintained
275 jurisdiction because a party seeking or having sought to invoke its
276 jurisdiction engaged in unjustifiable conduct may assess against that
277 party necessary and reasonable expenses, including attorney's fees,

278 investigative fees, court costs, communication expenses, witness fees
279 and expenses, and travel expenses. The court may not assess fees, costs
280 or expenses of any kind against this state or a governmental
281 subdivision, agency or instrumentality of this state unless authorized
282 by law other than sections 1 to 23, inclusive, of this act.

283 Sec. 15. (NEW) (*Effective October 1, 2010*) If a petition for involuntary
284 representation is brought in this state and this state was not the
285 respondent's home state on the date the petition was filed, in addition
286 to complying with the notice requirements of section 45a-649 of the
287 general statutes, as amended by this act, notice of the petition shall be
288 given to those persons who would be entitled to notice of the petition
289 if a proceeding were brought in the respondent's home state. The
290 notice shall be given in the same manner as notice is required to be
291 given in this state.

292 Sec. 16. (NEW) (*Effective October 1, 2010*) Except for a petition for the
293 appointment of a temporary conservator of the person or a temporary
294 conservator of the estate in an emergency under subdivision (1) of
295 subsection (a) of section 11 of this act or for a petition for involuntary
296 representation filed in this state where a petition for appointment of a
297 guardian or issuance of a protective order is filed in another state and
298 neither petition has been dismissed or withdrawn, the following rules
299 apply:

300 (1) If the Court of Probate has jurisdiction under section 10 of this
301 act, it may proceed with the case unless a court in another state
302 acquires jurisdiction under provisions similar to those in section 10 of
303 this act before the appointment or issuance of the order.

304 (2) If the Court of Probate does not have jurisdiction under
305 subdivision (1) or (2) of section 10 of this act, whether at the time the
306 petition is filed or at any time before the appointment or issuance of
307 the order, the court shall stay the proceeding and communicate with
308 the court in the other state. If the court in the other state has
309 jurisdiction, the Court of Probate shall dismiss the petition unless the

310 court in the other state determines that the Court of Probate is a more
311 appropriate forum and jurisdiction in this state is consistent with the
312 statutes of this state and the Constitutions of this state and the United
313 States.

314 Sec. 17. (NEW) (*Effective October 1, 2010*) (a) Except for an individual
315 under voluntary representation as provided in section 45a-647 of the
316 general statutes, a conserved person, a conserved person's attorney,
317 conservator of the person, or conservator of the estate appointed in this
318 state or any person who has received notice pursuant to subdivision
319 (2) of subsection (a) of section 45a-649 of the general statutes, as
320 amended by this act, may petition a court of probate to transfer the
321 conservatorship of the person or the conservatorship of the estate, or
322 both, to another state.

323 (b) Notice of a petition under subsection (a) of this section shall be
324 given to the persons that would be entitled to notice of a petition in
325 this state for the appointment of a conservator of the person or
326 conservator of the estate, or both.

327 (c) On the court's own motion or on request of the conservator of the
328 person or conservator of the estate, the conserved person, the
329 conserved person's attorney or other person required to be notified of
330 the petition, the court of probate shall hold a hearing on a petition filed
331 pursuant to subsection (a) of this section.

332 (d) The court of probate shall issue an order provisionally granting a
333 petition to transfer a conservatorship of the person and shall direct the
334 conservator of the person to petition for guardianship in the other state
335 if the court of probate is satisfied that the guardianship will be
336 accepted by the court in the other state and the court finds that:

337 (1) The conserved person is physically present in or is reasonably
338 expected to move permanently to the other state;

339 (2) An objection to the transfer has not been made or, if an objection

340 has been made, the objector has not established that the transfer would
341 be contrary to the interests of the conserved person, including the
342 reasoned and informed expressed preferences of the conserved person;
343 and

344 (3) Plans for care and services for the conserved person in the other
345 state are reasonable and sufficient, have been made after allowing the
346 conserved person the opportunity to participate meaningfully in
347 decision-making in accordance with the conserved person's abilities,
348 and include assisting the conserved person in removing obstacles to
349 independence, assisting the conserved person in achieving self-
350 reliance, ascertaining the conserved person's views, making decisions
351 in conformance with the conserved person's reasonable and informed
352 expressed preferences, and making all reasonable efforts to make
353 decisions in conformance with the conserved person's expressed health
354 care preferences, including health care instructions and other wishes, if
355 any, described in any validly executed health care instructions or
356 otherwise; and

357 (4) If the transfer involves the termination of a tenancy or lease of a
358 conserved person, the sale or disposal of any real property or
359 household furnishings of the conserved person, a change in the
360 conserved person's residence or the placement of the conserved person
361 in an institution for long-term care, as defined in section 45a-656b of
362 the general statutes, the court of probate shall ensure that the
363 requirements in section 45a-656b of the general statutes have been met
364 before approving the transfer.

365 (e) The court of probate shall issue a provisional order granting a
366 petition to transfer a conservatorship of the estate and shall direct the
367 conservator of the estate to petition for conservatorship of the estate in
368 the other state if the court of probate is satisfied that the
369 conservatorship of the estate will be accepted by the court of the other
370 state and the court finds that:

371 (1) The conserved person is physically present in or is reasonably

372 expected to move permanently to the other state, or the conserved
373 person has a significant connection to the other state considering the
374 factors set forth in subsection (b) of section 8 of this act;

375 (2) An objection to the transfer has not been made or, if an objection
376 has been made, the objector has not established that the transfer would
377 be contrary to the interests of the conserved person, including the
378 reasoned and informed expressed preferences of the conserved person;

379 (3) Adequate arrangements will be made for management of the
380 conserved person's property, and that such arrangements shall be
381 made in accordance with subsection (a) of section 45a-655 of the
382 general statutes; and

383 (4) The transfer is made in accordance with section 45a-656b of the
384 general statutes.

385 (f) The court of probate shall issue a final order confirming the
386 transfer and terminating the conservatorship of the person or
387 conservatorship of the estate on its receipt of:

388 (1) A provisional order accepting the proceeding from the court to
389 which the proceeding is to be transferred which is issued under
390 provisions similar to those in section 18 of this act; and

391 (2) The documents required to terminate a guardianship or
392 conservatorship in this state.

393 Sec. 18. (NEW) (*Effective October 1, 2010*) (a) To confirm transfer of a
394 guardianship or conservatorship transferred to this state under
395 provisions similar to those in section 17 of this act, the guardian or
396 conservator shall petition the Court of Probate to accept the guardian
397 as a conservator of the person or the conservator as a conservator of
398 the estate. The petition shall include a certified copy of the other state's
399 provisional order of transfer.

400 (b) Notice of a petition under subsection (a) of this section shall be

401 given to those persons that would be entitled to notice if the petition
402 were a petition for the appointment of a guardian or issuance of a
403 protective order in both the transferring state and this state. The notice
404 shall be given in the same manner as notice is required to be given
405 under section 45a-649 of the general statutes, as amended by this act.

406 (c) On the court's own motion or on request of the guardian or
407 conservator, the incapacitated person or protected person, or other
408 person required to be notified of the proceeding, the court of probate
409 shall hold a hearing on a petition filed pursuant to subsection (a) of
410 this section.

411 (d) The court of probate shall issue an order provisionally granting a
412 petition filed under subsection (a) of this section unless:

413 (1) An objection is made and the objector establishes that transfer of
414 the proceeding would be contrary to the interests of the incapacitated
415 person or protected person, including the reasoned and informed
416 expressed preferences of the conserved person; or

417 (2) The guardian or conservator is ineligible for appointment as a
418 conservator of the person or conservator of the estate in this state.

419 (e) The court of probate shall issue a final order accepting the
420 proceeding and appointing the guardian or conservator as conservator
421 of the person or conservator of the estate in this state on its receipt
422 from the court from which the proceeding is being transferred of a
423 final order issued under provisions similar to those in section 17 of this
424 act transferring the proceeding to this state.

425 (f) Not later than thirty days before the issuance of a final order
426 accepting the transfer of a guardianship or conservatorship to this
427 state, the court of probate shall insure that (1) the incapacitated person
428 or protected person is represented by counsel in accordance with the
429 provisions of section 45a-649a of the general statutes, and (2) such
430 person receives notice of his or her rights under the laws of this state

431 with respect to such transfer.

432 (g) Not later than ninety days after the issuance of a final order
433 accepting transfer of a guardianship or conservatorship to this state,
434 the court of probate shall determine whether the conservatorship of
435 the person or conservatorship of the estate needs to be modified to
436 conform to the law of this state, and, if so, the court of probate shall
437 order such modifications.

438 (h) In granting a petition under this section, the court of probate
439 shall recognize a guardianship or conservatorship order from the other
440 state, including the determination of the incapacitated person or
441 protected person's incapacity and the appointment of the guardian or
442 conservator.

443 (i) The denial by a court of probate of a petition to accept a
444 guardianship or conservatorship transferred from another state does
445 not affect the ability of the guardian or conservator to seek involuntary
446 representation under section 45a-648 of the general statutes, as
447 amended by this act, if the court has jurisdiction to grant the
448 involuntary representation other than by reason of the provisional
449 order of transfer.

450 (j) The granting by a court of probate of a petition to accept a
451 guardianship or conservatorship transferred from another state shall:

452 (1) Grant to the incapacitated person or protected person the same
453 rights as if such person had originally had a conservator of the person
454 or conservator of the estate appointed for the person under part IV of
455 chapter 802h of the general statutes, including, but not limited to, the
456 right to review and termination of appointment of a conservator under
457 section 45a-660 of the general statutes, and

458 (2) Impose upon the guardian or conservator the same
459 responsibilities and duties imposed upon a conservator of the person
460 or conservator of the estate under the laws of this state.

461 Sec. 19. (NEW) (*Effective October 1, 2010*) (a) If a guardian has been
462 appointed in another state and a petition for the appointment of a
463 conservator of the person is not pending in this state, the guardian
464 appointed in the other state, after giving notice to the appointing court
465 of an intent to register, may register the guardianship order in this
466 state as a conservatorship of the person by filing, as a foreign judgment
467 in the Office of the Probate Court Administrator, certified copies of the
468 order and letters of office.

469 (b) The Office of the Probate Court Administrator shall maintain a
470 registry, accessible by the public, of guardianships registered under
471 subsection (a) of this section.

472 Sec. 20. (NEW) (*Effective October 1, 2010*) (a) If a conservator has been
473 appointed in another state and a petition for the appointment of a
474 conservator of the estate is not pending in this state, the conservator
475 appointed in the other state, after giving notice to the appointing court
476 of an intent to register, may register the protective order in this state as
477 a conservatorship of the estate by filing as a foreign judgment in the
478 Office of the Probate Court Administrator, certified copies of the order
479 and letters of office and of any bond and may submit certified copies
480 for recordation on the land records in a town in which real property
481 belonging to the protected person is located.

482 (b) The Office of the Probate Court Administrator shall maintain a
483 registry, accessible by the public, of protective orders registered under
484 subsection (a) of this section.

485 Sec. 21. (NEW) (*Effective October 1, 2010*) (a) On registration in this
486 state under section 19 of this act of a guardianship or under section 20
487 of this act of a protective order from another state, the guardian or
488 conservator may exercise in this state all powers authorized in the
489 order of appointment, except as prohibited under the laws of this state,
490 including maintaining actions and proceedings in this state and, if the
491 guardian or conservator is not a resident of this state, subject to any
492 conditions imposed on nonresident parties. The registration of a

493 guardianship shall lapse one hundred twenty days after such
 494 registration, except that the registration may be extended for good
 495 cause for an additional one hundred twenty days by the court of
 496 probate in this state having jurisdiction over the location within this
 497 state where the person under the guardianship is physically located.

498 (b) A court of probate or, to the extent it lacks jurisdiction, the
 499 Superior Court may grant any relief available under sections 1 to 23,
 500 inclusive, of this act, section 45a-644 of the general statutes, as
 501 amended by this act, section 45a-648 of the general statutes, as
 502 amended by this act, and section 45a-649 of the general statutes, as
 503 amended by this act, and other law of this state to enforce a registered
 504 order.

505 Sec. 22. (NEW) (*Effective October 1, 2010*) In applying and construing
 506 the provisions of sections 1 to 23, inclusive, of this act, section 45a-644
 507 of the general statutes, as amended by this act, section 45a-648 of the
 508 general statutes, as amended by this act, and section 45a-649 of the
 509 general statutes, as amended by this act, consideration shall be given to
 510 the need to promote uniformity of the law with respect to its subject
 511 matter among states that enact such uniform provisions, consistent
 512 with the need to protect individual civil rights and in accordance with
 513 due process.

514 Sec. 23. (NEW) (*Effective October 1, 2010*) This section, sections 1 to
 515 22, inclusive, of this act, section 45a-644 of the general statutes, as
 516 amended by this act, section 45a-648 of the general statutes, as
 517 amended by this act, and section 45a-649 of the general statutes, as
 518 amended by this act, modify, limit and supersede the Electronic
 519 Signatures in Global and National Commerce Act, 15 USC Section 7001
 520 et seq., but do not modify, limit or supersede Section 101 of said act, 15
 521 USC Section 7001(a), or authorize electronic delivery of any of the
 522 notices described in Section 103 of said act, 15 USC Section 7003(b).

523 Sec. 24. Section 45a-644 of the general statutes is repealed and the
 524 following is substituted in lieu thereof (*Effective October 1, 2010*):

525 For the purposes of sections 45a-644 to 45a-663, inclusive, as
526 amended by this act, the following terms shall have the following
527 meanings:

528 (a) "Conservator of the estate" means a person, a municipal or state
529 official, or a private profit or nonprofit corporation except a hospital or
530 nursing home facility as defined in section 19a-521, appointed by the
531 Court of Probate under the provisions of sections 45a-644 to 45a-663,
532 inclusive, as amended by this act, to supervise the financial affairs of a
533 person found to be incapable of managing his or her own affairs or of a
534 person who voluntarily asks the Court of Probate for the appointment
535 of a conservator of the estate, and includes a temporary conservator of
536 the estate appointed under the provisions of section 45a-654.

537 (b) "Conservator of the person" means a person, a municipal or state
538 official, or a private profit or nonprofit corporation, except a hospital
539 or nursing home facility as defined in section 19a-521, appointed by
540 the Court of Probate under the provisions of sections 45a-644 to 45a-
541 663, inclusive, as amended by this act, to supervise the personal affairs
542 of a person found to be incapable of caring for himself or herself or of a
543 person who voluntarily asks the Court of Probate for the appointment
544 of a conservator of the person, and includes a temporary conservator
545 of the person appointed under the provisions of section 45a-654.

546 (c) "Incapable of caring for one's self" or "incapable of caring for
547 himself or herself" means that a person has a mental, emotional or
548 physical condition that results in such person being unable to receive
549 and evaluate information or make or communicate decisions to such
550 an extent that the person is unable, even with appropriate assistance,
551 to meet essential requirements for personal needs.

552 (d) "Incapable of managing his or her affairs" means that a person
553 has a mental, emotional or physical condition that results in such
554 person being unable to receive and evaluate information or make or
555 communicate decisions to such an extent that the person is unable,
556 even with appropriate assistance, to perform the functions inherent in

557 managing his or her affairs, and the person has property that will be
558 wasted or dissipated unless adequate property management is
559 provided, or that funds are needed for the support, care or welfare of
560 the person or those entitled to be supported by the person and that the
561 person is unable to take the necessary steps to obtain or provide funds
562 needed for the support, care or welfare of the person or those entitled
563 to be supported by the person.

564 (e) "Involuntary representation" means the appointment of a
565 conservator of the person or a conservator of the estate, or both, after a
566 finding by the Court of Probate that the respondent is incapable of
567 managing his or her affairs or incapable of caring for himself or herself.

568 (f) "Respondent" means an adult person for whom an application for
569 involuntary representation has been filed or an adult person who has
570 requested voluntary representation.

571 (g) "Voluntary representation" means the appointment of a
572 conservator of the person or a conservator of the estate, or both, upon
573 request of the respondent, without a finding that the respondent is
574 incapable of managing his or her affairs or incapable of caring for
575 himself or herself.

576 (h) "Conserved person" means a person for whom involuntary
577 representation is granted under sections 45a-644 to 45a-663, inclusive,
578 as amended by this act.

579 (i) "Personal needs" means the needs of a person including, but not
580 limited to, the need for food, clothing, shelter, health care and safety.

581 (j) "Property management" means actions to (1) obtain, administer,
582 manage, protect and dispose of real and personal property, intangible
583 property, business property, benefits and income, and (2) deal with
584 financial affairs.

585 (k) "Least restrictive means of intervention" means intervention for a
586 conserved person that is sufficient to provide, within the resources

587 available to the conserved person either from the conserved person's
588 own estate or from private or public assistance, for a conserved
589 person's personal needs or property management while affording the
590 conserved person the greatest amount of independence and self-
591 determination.

592 Sec. 25. Section 45a-648 of the general statutes is repealed and the
593 following is substituted in lieu thereof (*Effective October 1, 2010*):

594 (a) An application for involuntary representation may be filed by
595 any person alleging that a respondent is incapable of managing his or
596 her affairs or incapable of caring for himself or herself and stating the
597 reasons for the alleged incapability. The application shall be filed in the
598 court of probate in the district in which the respondent resides, is
599 domiciled or is located at the time of the filing of the application.

600 (b) An application for involuntary representation for a
601 nondomiciliary of the state [made pursuant to subsection (a) of this
602 section shall not be granted unless the court finds the (1) respondent is
603 presently located in the probate district in which the application is
604 filed; (2) applicant has made reasonable efforts to provide notice to
605 individuals and applicable agencies listed in subsection (a) of section
606 45a-649 concerning the respondent; (3) respondent has been provided
607 an opportunity to return to the respondent's place of domicile, and has
608 been provided the financial means to return to the respondent's place
609 of domicile within the respondent's resources, and has declined to
610 return, or the applicant has made reasonable but unsuccessful efforts
611 to return the respondent to such respondent's place of domicile; and
612 (4) requirements of this chapter for the appointment of a conservator
613 pursuant to an application for involuntary representation have been
614 met] shall be made pursuant to the provisions of sections 8 to 16,
615 inclusive, of this act.

616 [(c) If, after the appointment of a conservator for a nondomiciliary of
617 the state the nondomiciliary becomes domiciled in this state, the
618 provisions of this section regarding involuntary representation of a

619 nondomiciliary shall no longer apply.

620 (d) The court shall review any involuntary representation of a
621 nondomiciliary ordered by the court pursuant to subsection (b) of this
622 section every sixty days. Such involuntary representation shall expire
623 sixty days after the date such involuntary representation was ordered
624 by the court or sixty days after the most recent review ordered by the
625 court, whichever is later, unless the court finds the (1) conserved
626 person is presently located in the state; (2) conservator has made
627 reasonable efforts to provide notice to individuals and applicable
628 agencies listed in subsection (a) of section 45a-649 concerning the
629 conserved person; (3) conserved person has been provided an
630 opportunity to return to the conserved person's place of domicile and
631 has been provided the financial means to return to the conserved
632 person's place of domicile within the conserved person's resources,
633 and has declined to return, or the conservator has made reasonable but
634 unsuccessful efforts to return the conserved person to the conserved
635 person's place of domicile; and (4) requirements of this chapter for the
636 appointment of a conservator pursuant to an application for
637 involuntary representation have been met. As part of its review under
638 this subsection, the court shall receive and consider reports from the
639 conservator and from the attorney for the conserved person regarding
640 the requirements of this subsection.]

641 [(e)] (c) A person is guilty of fraudulent or malicious application or
642 false testimony when such person (1) wilfully files a fraudulent or
643 malicious application for involuntary representation or appointment of
644 a temporary conservator, (2) conspires with another person to file or
645 cause to be filed such an application, or (3) wilfully testifies either in
646 court or by report to the court falsely to the incapacity of any person in
647 any proceeding provided for in sections 45a-644 to 45a-663, inclusive,
648 as amended by this act. Fraudulent or malicious application or false
649 testimony is a class D felony.

650 Sec. 26. Section 45a-649 of the general statutes is repealed and the

651 following is substituted in lieu thereof (*Effective October 1, 2010*):

652 (a) (1) Upon an application for involuntary representation, the court
 653 shall issue a citation to the following enumerated parties to appear
 654 before it at a time and place named in the citation, which shall be
 655 served on the parties at least ten days before the hearing date, or in the
 656 case of an application made pursuant to section 17a-543 or 17a-543a, at
 657 least seven days before the hearing date, which date in any event shall
 658 not be more than thirty days after the receipt of the application by the
 659 Court of Probate unless continued for cause shown. Notice of the
 660 hearing shall be sent within thirty days after receipt of the application.
 661 In addition to such notice, (A) notice for a matter brought under
 662 sections 8 to 16, inclusive, of this act shall be given in the manner
 663 provided in section 15 of this act, and (B) notice for a matter brought
 664 under section 17 of this act shall be given in the manner provided in
 665 section 18 of this act.

666 (2) The court shall direct that personal service of the citation be
 667 made, by a state marshal, constable or an indifferent person, upon the
 668 following: The respondent and the respondent's spouse, if any, if the
 669 spouse is not the applicant, except that in cases where the application
 670 is for involuntary representation pursuant to section 17b-456, and there
 671 is no spouse, the court shall order notice by certified mail to the
 672 children of the respondent and if none, the parents of the respondent
 673 and if none, the brothers and sisters of the respondent or their
 674 representatives, and if none, the next of kin of such respondent.

675 (3) The court shall order such notice as it directs to the following:
 676 (A) The applicant; (B) the person in charge of welfare in the town
 677 where the respondent is domiciled or resident and, if there is no such
 678 person, the first selectman or chief executive officer of the town if the
 679 respondent is receiving assistance from the town; (C) the
 680 Commissioner of Social Services, if the respondent is in a state-
 681 operated institution or receiving aid, care or assistance from the state;
 682 (D) the Commissioner of Veterans' Affairs if the respondent is

683 receiving veterans' benefits or the Veterans' Home, or both, if the
684 respondent is receiving aid or care from such home, or both; (E) the
685 Commissioner of Administrative Services, if the respondent is
686 receiving aid or care from the state; (F) the children of the respondent
687 and if none, the parents of the respondent and if none, the brothers
688 and sisters of the respondent or their representatives; (G) the person in
689 charge of the hospital, nursing home or some other institution, if the
690 respondent is in a hospital, nursing home or some other institution.

691 (4) The court, in its discretion, may order such notice as it directs to
692 other persons having an interest in the respondent and to such persons
693 the respondent requests be notified.

694 (5) If personal service of the notice required in subsection (b) of this
695 section is not made as required in subdivision (2) of this subsection,
696 the court shall be deprived of jurisdiction over the application.

697 (b) The notice required by subdivision (2) of subsection (a) of this
698 section shall specify [(A)] (1) the nature of involuntary representation
699 sought and the legal consequences thereof, [(B)] (2) the facts alleged in
700 the application, [(C)] (3) the date, time and place of the hearing, and
701 [(D)] (4) that the respondent has a right to be present at the hearing
702 and has a right to be represented by an attorney of the respondent's
703 choice at the respondent's own expense. The notice shall also include a
704 statement in boldface type of a minimum size of twelve points in
705 substantially the following form:

706 "POSSIBLE CONSEQUENCES OF THE APPOINTMENT
707 OF A CONSERVATOR FOR YOU

708 This court has received an application to appoint a conservator for
709 you. A conservator is a court-appointed legal guardian who may be
710 assigned important decision-making authority over your affairs. If the
711 application is granted and a conservator is appointed for you, you will
712 lose some of your rights.

713 A permanent conservator may only be appointed for you after a
714 court hearing. You have the right to attend the hearing on the
715 application for appointment of a permanent conservator. If you are not
716 able to access the court where the hearing will be held, you may
717 request that the hearing be moved to a convenient location, even to
718 your place of residence.

719 You should have an attorney represent you at the hearing on the
720 application. If you are unable to obtain an attorney to represent you at
721 the hearing, the court will appoint an attorney for you. If you are
722 unable to pay for representation by an attorney, the court will pay
723 attorney fees as permitted by the court's rules. Even if you qualify for
724 payment of an attorney on your behalf, you may choose an attorney if
725 the attorney will accept the attorney fees permitted by the court's rules.

726 If, after a hearing on the application, the court decides that you lack
727 the ability to care for yourself, pay your bills or otherwise manage
728 your affairs, the court may review any alternative plans you have to
729 get assistance to handle your own affairs that do not require
730 appointment of a conservator. If the court decides that there are no
731 adequate alternatives to the appointment of a conservator, the court
732 may appoint a conservator and assign the conservator responsibility
733 for some or all of the duties listed below. While the purpose of a
734 conservator is to help you, you should be aware that the appointment
735 of a conservator limits your rights. Among the areas that may be
736 affected are:

- 737 - Accessing and budgeting your money
- 738 - Deciding where you live
- 739 - Making medical decisions for you
- 740 - Paying your bills
- 741 - Managing your real and personal property

742 You may participate in the selection of your conservator. If you
743 have already designated a conservator or if you inform the court of
744 your choice for a conservator, the court must honor your request
745 unless the court decides that the person designated by you is not
746 appropriate.

747 The conservator appointed for you may be a lawyer, a public official
748 or someone whom you did not know before the appointment. The
749 conservator will be required to make regular reports to the court about
750 you. The conservator may charge you a fee, under the supervision of
751 the court, for being your conservator."

752 (c) Notice to all other persons required by this section shall only be
753 required to state that involuntary representation is sought, the nature
754 of the involuntary representation sought, the legal consequences of the
755 involuntary representation and the date, time and place of the hearing
756 on the application for involuntary representation.

757 (d) If the respondent is unable to request or obtain an attorney for
758 any reason, the court shall appoint an attorney to represent the
759 respondent in any proceeding under this title involving the
760 respondent. If the respondent is unable to pay for the services of such
761 attorney, the reasonable compensation for such attorney shall be
762 established by, and paid from funds appropriated to, the Judicial
763 Department, except that if funds have not been included in the budget
764 of the Judicial Department for such purposes, such compensation shall
765 be established by the Probate Court Administrator and paid from the
766 Probate Court Administration Fund.

767 (e) If the respondent notifies the court in any manner that the
768 respondent wants to attend the hearing on the application but is
769 unable to do so, the court shall schedule the hearing on the application
770 at a place that would facilitate attendance by the respondent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	New section
Sec. 10	<i>October 1, 2010</i>	New section
Sec. 11	<i>October 1, 2010</i>	New section
Sec. 12	<i>October 1, 2010</i>	New section
Sec. 13	<i>October 1, 2010</i>	New section
Sec. 14	<i>October 1, 2010</i>	New section
Sec. 15	<i>October 1, 2010</i>	New section
Sec. 16	<i>October 1, 2010</i>	New section
Sec. 17	<i>October 1, 2010</i>	New section
Sec. 18	<i>October 1, 2010</i>	New section
Sec. 19	<i>October 1, 2010</i>	New section
Sec. 20	<i>October 1, 2010</i>	New section
Sec. 21	<i>October 1, 2010</i>	New section
Sec. 22	<i>October 1, 2010</i>	New section
Sec. 23	<i>October 1, 2010</i>	New section
Sec. 24	<i>October 1, 2010</i>	45a-644
Sec. 25	<i>October 1, 2010</i>	45a-648
Sec. 26	<i>October 1, 2010</i>	45a-649

Statement of Purpose:

To adopt the Connecticut Uniform Adult Protective Proceedings Jurisdiction Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]